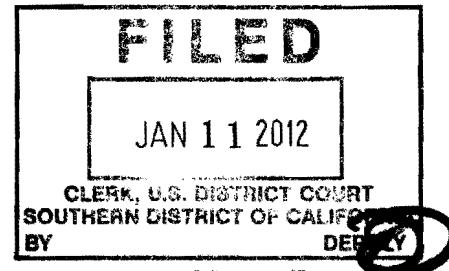


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13 Conrad Braun



14 UNITED STATES DISTRICT COURT  
15 SOUTHERN DISTRICT OF CALIFORNIA

16 CONRAD BRAUN, individually and on behalf  
17 of all other similarly situated,

18 Plaintiff,

19 v.

20 SAVEOLOGY.COM LLC, a Florida Limited  
21 Liability Company; and ELEPHANT GROUP,  
22 INC., a Delaware Corporation,

23 Defendants.

24 Case No.

25 **'12 CV 0085 JLS MDD**

26 **CLASS ACTION**

27 COMPLAINT FOR VIOLATIONS OF  
28 THE TELEPHONE CONSUMER  
PROTECTION ACT, 47 U.S.C. §§ 227,  
*ET SEQ.*

29 **JURY TRIAL DEMANDED**

1       1. Conrad Braun ("Plaintiff"), through Plaintiff's attorneys, brings this class action for  
 2 damages, injunctive relief, and any other available legal or equitable remedies resulting from  
 3 Saveology.com LLC and Elephant Group, Inc.'s (collectively "Defendants"), violations of the  
 4 Telephone Consumer Protection Act, 47 U.S.C. §§ 227, et seq. (the "TCPA"). Defendants  
 5 contacted Plaintiff and the Class<sup>1</sup> cellular telephones using unsolicited prerecorded advertising  
 6 messages, thereby violating 47 U.S.C. § 227(b)(1)(A)(iii) of the TCPA. Plaintiff alleges as follows  
 7 upon personal knowledge as to himself and his own acts and experiences, and as to all other  
 8 matters, upon information and belief, including investigation conducted by his attorneys.

9 **I. JURISDICTION AND VENUE**

10     2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331 because this civil  
 11 action arises out of the laws of the United States, and 28 U.S.C. § 1332(d)(2) because Plaintiff  
 12 seeks relief on behalf of a national class, which will result in Class members belonging to different  
 13 states than that of Defendants. Plaintiff also seeks relief not greater than \$1,500 for each  
 14 telemarketing call in violation of the TCPA, which exceeds the \$5,000,000 threshold for federal  
 15 court jurisdiction.

16     3. Venue is proper in the United States District Court for the Southern District of  
 17 California pursuant to 18 U.S.C. §§ 1391(b) and 1441(a) because Defendants do business within  
 18 the State of California and the County of San Diego, a substantial part of the events giving rise to  
 19 the claims occurred in this District, and Defendants are subject to personal jurisdiction here at the  
 20 time the action is commenced.

21 **II. PARTIES**

22     4. Plaintiff is, and all times relevant hereto was, a citizen of the United States, and a  
 23 resident of the State of California. Plaintiff is, and all times mentioned herein was, a "person" as  
 24 defined by 47 U.S.C. § 153(39).

25  
 26     1 As described in paragraph 26 below, the Class pled herein is defined as: "All persons and entities,  
 27 excluding those from whom Saveology.com LLC or Elephant Group, Inc. received prior express  
 28 consent, who received an unsolicited prerecorded advertisement for home alarm systems to their  
 cellular telephone from Saveology.com LLC or Elephant Group, Inc. while residents of the United  
 States and since January 11, 2008."

1       5.     Defendant Saveology.com LLC ("Saveology") is, and all times relevant hereto was,  
 2 a Florida limited liability company whose principal place of business is 3303 West Commercial  
 3 Boulevard, 2<sup>nd</sup> Floor, Fort Lauderdale, Florida 33309. Defendant Saveology describes itself as "a  
 4 leading Internet-based direct marketing platform focused on providing consumers the ability to  
 5 obtain the best deals on services and products." Saveology purports to be among the 25 fastest-  
 6 growing technology companies in Florida, with over 1000 employees and over \$200 million in  
 7 annual revenue. At all times relevant hereto, Defendant Saveology was and is a "person" as defined  
 8 by 47 U.S.C. § 153(39).

9       6.     Defendant Elephant Group Inc. ("Elephant") is, and all times relevant hereto was, a  
 10 Delaware corporation whose principal place of business is 3303 West Commercial Boulevard, 2<sup>nd</sup>  
 11 Floor, Fort Lauderdale, Florida 33309. At all times relevant hereto, Defendant Elephant was and is  
 12 a "person" as defined by 47 U.S.C. § 153(39). Defendant Elephant was and at all relevant times is  
 13 the direct parent corporation of defendant Saveology, and describes itself as "a complete  
 14 performance-based marketing solution to target, obtain and retain quality customers."

15     **III.    LEGAL REQUIREMENTS FOR DEFENDANTS' UNSOLICITED**  
 16     **PRERECORDED ADVERTISING MESSAGES**

17       7.     47 U.S.C. § 227(b) states in pertinent part:

18       **(b) Restrictions on use of automated telephone equipment**

19       (1) It shall be unlawful for any person within the United States, or any person  
 20 outside the United States if the recipient is within the United States --

21               (A) to make any call (other than a call made for emergency purposes or made  
 22 with the prior express consent of the called party) using any automatic  
telephone dialing system or an artificial or prerecorded voice --

23               \*       \*       \*

24               (iii) to any telephone number assigned to a paging service, cellular  
telephone service, specialized mobile radio service, or other radio  
 25 common carrier service, or any service for which the called party is  
 charged for the call;

26               \*       \*       \*

27       (3) Private right of action. A person or entity may, if otherwise permitted by the laws  
 28 or rules of court of a State, bring in an appropriate court of that State --

             (A) an action based on a violation of this subsection or the regulations  
 prescribed under this subsection to enjoin such violation,

1 (B) an action to recover for actual monetary loss from such a violation, or to  
 2 receive \$500 in damages for each such violation, whichever is greater, or  
 3 (C) both such actions.

4 If the court finds that the defendant willfully or knowingly violated this subsection  
 5 or the regulations prescribed under this subsection, the court may, in its discretion,  
 6 increase the amount of the award to an amount equal to not more than 3 times the  
 7 amount available under subparagraph (B) of this paragraph.

8 47 U.S.C. § 227(b) (emphasis added).

9 8. The Federal Trade Commission (“FTC”) prohibits telemarketers from engaging in a:  
 10 (b) Pattern of calls.

11 (1) It is an abusive telemarketing act or practice and a violation of this Rule for a  
 12 telemarketer to engage in, or for a seller to cause a telemarketer to engage in, the  
 13 following conduct:

14 \* \* \*

15 (v) Initiating any outbound telephone call that delivers a prerecorded  
 16 message, other than a prerecorded message permitted for compliance with  
 17 the call abandonment safe harbor in § 310.4(b)(4)(iii), unless:

18 (A) in any such call to induce the purchase of any good or service, the  
 19 seller has obtained from the recipient of the call an express  
 20 agreement, in writing, that:

21 (i) The seller obtained only after a clear and conspicuous  
 22 disclosure that the purpose of the agreement is to authorize the  
 23 seller to place prerecorded calls to such person;

24 (ii) The seller obtained without requiring, directly or  
 25 indirectly, that the agreement be executed as a condition of  
 26 purchasing any good or service;

27 (iii) Evidences the willingness of the recipient of the call to  
 28 receive calls that deliver prerecorded messages by or on  
 behalf of a specific seller; and

(iv) Includes such person's telephone number and signature;

16 C.F.R. § 310.4(b)(1)(v) (emphasis added).

17 9. The Federal Communication Commission (“FCC”) determined that automated or  
 18 prerecorded telephone calls are prohibited under the TCPA because such calls are a greater  
 19 nuisance and invasion of privacy than live solicitations. In addition, such calls can be costly and  
 20 inconvenient. The FCC also recognized that wireless customers are charged for incoming calls  
 21

1 whether they pay in advance or after the minutes are used. *Rules and Regulations Implementing the*  
 2 *Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278, Report and Order, 18 FCC  
 3 Rcd 14014 (2003)

4 10. Under the TCPA, the burden is on a defendant to demonstrate that a consumer gave  
 5 express consent to call his or her cell phone within the meaning of the statute.

6 **IV. FACTUAL ALLEGATIONS**

7 11. At all times relevant all Defendants conducted business in the State of California,  
 8 County of San Diego.

9 12. Plaintiff maintains cellular service with a cellular telephone service provider and  
 10 maintains a cell phone number in the 619 area code wih last four digits “7999.” Plaintiff has  
 11 maintained this cell phone number during all times relevant herein. Plaintiff’s cell phone number is  
 12 not listed for any business and is solely for Plaintiff’s personal use.

13 13. Plaintiff never provided this cell phone number to any Defendant or provided any  
 14 type of consent to receive sales solicitations through Plaintiff’s cell phone.

15 14. On July 12, 2011 at approximately 1:57 p.m., Plaintiff received an unsolicited  
 16 prerecorded message on his cell phone from 207-766-7616, which on information and belief is  
 17 owned and/or operated by Defendants. The prerecorded message was an unsolicited advertisement  
 18 containing a sales promotion for home alarm systems. To take advantage of the offer, Plaintiff was  
 19 prompted to press “1.” No company was identified, no telephone number or address was provided  
 20 in the pre-recorded message, and no mechanical opt-out was provided as required by 47 U.S.C. §  
 21 227(d)(3).<sup>2</sup> Plaintiff pressed “1” and was transferred to a live operator by the name of May. May  
 22 represented to Plaintiff that she was from “Home Security Center” offering home security through  
 23 ADT Security Services.<sup>3</sup> May indicated that the call was being recorded and asked Plaintiff to

25 <sup>2</sup> Defendants’ violations of 47 U.S.C. § 227(d) are not a basis for liability in this lawsuit.

26 <sup>3</sup> ADT Security Services, Inc. (“ADT”), the third-party on behalf of which Defendants made  
 27 the unsolicited prerecorded advertising messages at issue herein, entered into a Consent Decree and  
 Order for Civil Penalties, Injunction and Other Relief with the United States Department of Justice,  
 for engaging in an “abusive pattern of telemarketing calls” (the “ADT Consent Decree.”) The  
 28 ADT Consent Decree requires ADT to monitor and ensure Defendants’ compliance with the  
 TCPA.

1 verify that he was talking to a live person. Plaintiff responded that he was talking to a live person  
 2 after responding to a prerecorded message. The call was immediately terminated by the caller.

3 15. Immediately thereafter, Plaintiff received a call on his cell phone from the same  
 4 representative, May. Plaintiff's caller ID read 207-766-7612, which on information and belief is  
 5 owned and/or operated by Defendants. May again told Plaintiff that the conversation was being  
 6 recorded, and asked Plaintiff to verify that he was talking to a live person. Plaintiff responded that  
 7 he was only talking to a live person after receiving a prerecorded message. The second call was  
 8 again immediately terminated by the caller.

9 16. On July 15, 2010, Plaintiff received a call on his cell phone from 207-766-7617 with  
 10 the same prerecorded message Plaintiff received on July 12, 2010. Plaintiff pressed "1" and was  
 11 connected to a female operator who asked Plaintiff to verify that he was talking to a live person.  
 12 Plaintiff acknowledged he was talking to a live person and was thereafter told that the call was  
 13 from defendant Saveology.

14 17. Each member of the Class received the same unsolicited prerecorded advertising  
 15 message from Defendants herein.<sup>4</sup>

16 18. Defendants purchased Plaintiff and each Class Member's cell phone number from a  
 17 commercial marketing database, and systematically failed to take reasonable steps to verify that  
 18 Plaintiff and each member of the Class had given Defendants prior express consent to the  
 19 unsolicited prerecorded advertising message at issue herein.

20 19. Defendants are Internet based companies with no discernable retail presence.  
 21 Defendants do not maintain a procedure for Plaintiff and other Class Members to provide  
 22 Defendants with prior express written consent to receive the telemarketing calls at issue herein.

23 20. Defendants are required by the *Telemarketing Sales Rule* to obtain express written  
 24 consent from Plaintiff and the Class prior to making any telemarketing calls using a prerecorded

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26 <sup>4</sup> On information and belief, Defendants called Plaintiff and the Class' cellular telephone  
 27 numbers using an automatic telephone dialing system that has the capacity to store or produce  
 28 telephone numbers to be called, using a random or sequential number generator; and has the  
 capacity to dial such numbers.

1 message. 16 C.F.R. § 310.4(b)(1)(v). However, Defendants fail to obtain Plaintiff and the Class' 2 express written consent as required.

3 21. The above unsolicited prerecorded advertisement to Plaintiff and the Class' cell 4 phones were placed using an "artificial or prerecorded voice" as prohibited by 47 U.S.C. § 227 5 (b)(1)(A).

6 22. The telephone numbers that Defendants, or their agents, called are assigned to cell 7 phone service for which Plaintiff and the Class incur charges for incoming calls pursuant to 47 8 U.S.C. § 227(b)(1)(A)(iii).

9 23. Defendants' calls to Plaintiff and the Class' cell phones were not for emergency 10 purposes as defined by 47 U.S.C. § 227 (b)(1)(A)(i).

11 24. The above phone calls by Defendants or their agents violated 47 U.S.C. § 12 227(b)(1)(A).

13 25. Plaintiff has complied with 16 C.F.R. § 310.7 by providing a copy of this Complaint 14 to the FTC in advance of filing this lawsuit.

15 **V. CLASS ALLEGATIONS**

16 26. Plaintiff brings this action as a class action pursuant to Federal Rules of Civil 17 Procedure 23(a), (b)(2) and (b)(3) for the following Class of persons:

18 All persons and entities, excluding those from whom Saveology.com LLC or 19 Elephant Group, Inc. received prior express consent, who received an unsolicited 20 prerecorded advertisement for home alarm systems to their cellular telephone from Saveology.com LLC or Elephant Group, Inc. while residents of the United States and since January 11, 2008.

21 Excluded from the Class are all governmental entities, Defendants herein and any person, firm, 22 trust, corporation, or other entity related to or affiliated with any defendant, as well as any judge, 23 justice or judicial officer presiding over this matter and members of their immediate families and 24 judicial staff.

25 27. The members of the Class are so numerous that joinder of all Class members is 26 impracticable. While the exact number of Class members is unknown to Plaintiff at this time and 27 will be ascertained through appropriate discovery. Due to the nature of the telemarketing calls at 28

1 issue, Plaintiff is informed and believes that there are tens of thousands of members in the  
 2 proposed Class. Members of the Class can be easily identified from records maintained by  
 3 Defendants and/or their cell phone service providers, who maintain records concerning the illegal  
 4 telemarketing calls to Plaintiff and the Class.

5       28. Each Class member received at least one unsolicited prerecorded advertising  
 6 message to their cell phone from Defendants herein, which multiplied by the appropriate statutory  
 7 damages available pursuant to 47 U.S.C. § 227(b)(3), will allow determination of Class-wide relief.

8       29. Plaintiff's claims are typical of the claims of the other members of the Class. All  
 9 members of the Class have been and/or continue to be similarly affected by Defendants' wrongful  
 10 conduct as complained of herein in violation of federal law. Plaintiff has no interests adverse to the  
 11 Class.

12       30. Plaintiff will fairly and adequately protect the Class Members' interests and has  
 13 retained counsel competent and experienced in consumer class action lawsuits and complex  
 14 litigation.

15       31. Defendants have acted with respect to the Class in a manner generally applicable to  
 16 each Class Member. Common questions of law and fact exist as to all members of the Class and  
 17 predominate over any questions wholly affecting individual Class Members. There is a well-  
 18 defined community of interest in the questions of law and fact involved in the action, which affect  
 19 all members of the Class. Among the questions of law and fact common to the Class are, *inter alia*:

- 20       (a) Whether Defendants made calls to Plaintiff and the Class' cell phone numbers using  
 21            automatic telephone dialing system(s) and/or an artificial or prerecorded voice as  
 22            prohibited by 47 U.S.C. § 227(b)(1)(iii);
- 23       (b) Whether all members of the Class received the same or substantially similar  
 24            unsolicited prerecorded advertising message;
- 25       (c) Whether Defendants' failure to obtain "express consent" from Plaintiff and the  
 26            Class prior to making unsolicited prerecorded advertising messages is capable of  
 27            common proof, such as:

- i. Whether Defendants obtained Plaintiff and the Class' cellular telephone numbers from a commercial marketing database;
- ii. Whether Defendants' records evidence any "express agreement, in writing" to receive the unsolicited prerecorded advertising messages at issue by this Complaint, as required by the *Telemarketing Sales Rule*, 16 C.F.R. § 310.4(b)(1)(v); and
- iii. Whether Defendants' have a mechanism for Plaintiff and other members of the Class to provide Defendants with express written consent prior to receiving the unsolicited prerecorded advertising messages at issue in by this Complaint.

(d) Whether Defendants' insistence that Plaintiff and the Class verify that they are talking to a live person after responding to Defendants' unsolicited prerecorded advertising messages, or other facts, evidence that Defendants' violations of 47 U.S.C. § 227(b)(1) are willful and/or knowing;

(e) Whether Defendants acted in concert or were otherwise each others' agent, alter ego, aiders and abettors, enablers, or duly authorized representatives with respect to the unsolicited prerecorded advertising messages as alleged herein;

(f) The appropriate amount of statutory damages, equitable remedies, and injunctive relief to which Plaintiff and the other members of the Class are entitled;

(g) Whether Defendants have insurance coverage for their violations of the TCPA as alleged herein, and the amount of such coverage;

(h) Whether Plaintiff and members of the Class should be awarded attorneys' fees and the costs of suit for Defendants' violations of the TCPA as alleged herein.

32. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual members of the Class may be relatively small, the expense and burden of individual litigation make it virtually impossible for Class Members to individually

redress the wrongs done to them. There will be no difficulty in managing this action as a class action.

33. Defendants have acted on grounds generally applicable to the entire Class with respect to the matters complained of herein, thereby making appropriate the relief sought herein with respect to the Class as a whole.

**COUNT I**  
**AGAINST ALL DEFENDANTS FOR**  
**NEGLIGENCE VIOLATIONS OF THE TCPA**  
**47 U.S.C. § 227(b)(1)(A)(iii)**

34. Plaintiff incorporates by reference and realleges each and every paragraph alleged above as though fully alleged herein.

35. Defendants and/or their agents or employees made thousands of unsolicited phone calls to wireless telephone numbers belonging to Plaintiff and other members of the Class.

36. Defendants utilize an automatic telephone dialing system to call Plaintiff and members of the Class automatically and without human intervention. Defendants' equipment is a system combining software and hardware features, that has the capacity to store or produce telephone numbers and dial those numbers at random, in sequential order, or from a database of numbers

37. The unsolicited phone calls to Plaintiff and the Class' cell phones utilized an artificial or prerecorded voice message.

38. Defendants' unsolicited phone calls to Plaintiff and the Class were not for emergency purposes, but instead were advertisements regarding the commercial availability of, and which encouraged the purchase of, home alarm systems.

39. Defendants did not seek express consent, written or otherwise, from Plaintiff or any member of the Class prior to calling their cell phones as complained of herein.

40. Defendants have violated 47 U.S.C. § 227(b)(1)(A)(iii) causing Plaintiff and members of the Class to suffer actual damages in the form of monies paid to receive unsolicited calls on their cellular phones and, under 47 U.S.C. § 227(b)(3)(B), are each entitled to \$500.00 in damages for each violation of the TCPA.

41. An injunction prohibiting Defendants from violating the TCPA as alleged herein is in the public interest. Absent an injunction, Plaintiff and each member of the Class will suffer irreparable harm, and the continuing threat of illegal marketing calls from Defendants.

**COUNT II**  
**AGAINST ALL DEFENDANTS FOR**  
**WILLFUL / KNOWING VIOLATIONS OF THE TCPA**  
**47 U.S.C. § 227 227(b)(1)(A)(iii)**

42. Plaintiff incorporates by reference and realleges paragraphs 1 through 33, above, as through fully set forth herein by this reference.

43. Defendants and/or their agents or employees made thousands of unsolicited phone calls to wireless telephone numbers belonging to Plaintiff and other members of the Class.

44. Defendants utilize an automatic telephone dialing system to call Plaintiff and members of the Class automatically and without human intervention. Defendants' equipment is a system combining software and hardware features, that has the capacity to store or produce telephone numbers and dial those numbers at random, in sequential order, or from a database of numbers.

45. The unsolicited phone calls to Plaintiff and the Class' cell phones utilized an artificial or prerecorded voice message.

46. Defendants' unsolicited phone calls to Plaintiff and the Class were not for emergency purposes, but instead were advertisements regarding the commercial availability of, and which encouraged the purchase of, home alarm systems.

47. Defendants did not seek express consent, written or otherwise, from Plaintiff or any member of the Class prior to calling their cell phones as complained of herein.

48. Defendants knowingly and or willfully violate the TCPA, and intentionally design the presentation of the unsolicited prerecorded advertising messages to Plaintiff and the Class in a manner that conceals evidence of the TCPA violations as alleged herein.

49. Defendants have knowingly and/or willfully violated 47 U.S.C. § 227(b)(1)(A)(iii), which entitles Plaintiff and each member of the Class to treble damages, as provided by statute, up

1 to \$1,500.00, for each and every violation of the TCPA, pursuant to 47 U.S.C. § 227(b)(3)(B) and  
2 47 U.S.C. § 227(b)(3)(C).

3 50. An injunction prohibiting Defendants from violating the TCPA as alleged herein is  
4 in the public interest. Absent an injunction, Plaintiff and each member of the Class will suffer  
5 irreparable harm, and the continuing threat of illegal marketing calls from Defendants.

6 **VI. JURY TRIAL DEMAND**

7 51. Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, and the Seventh  
8 Amendment to the United States Constitution, Plaintiff demands a trial by jury of all of the claims  
9 asserted in this Complaint so triable.

10 **VII. PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff and the Class pray for relief and judgment as follows:

12 A. For an order declaring that this action is properly maintained as a class action and  
13 certifying a class representative and class counsel in accordance with Rule 23 of the Federal Rules  
14 of Civil Procedure;

15 B. For an order awarding Plaintiff and the members of the Class appropriate statutory  
16 damages for each and every violation of the TCPA, pursuant to 47 U.S.C. § 227(b)(3)(B).

17 C. For an order enjoining Defendants from continuing to engage in violations of the  
18 TCPA pursuant to 47 U.S.C. § 227(b)(3)(A);

19 D. For treble damages up to \$1,500.00 for each and every violation of the TCPA,  
20 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

21 E. For an order awarding Plaintiff and the members of the Class pre-judgment and  
22 post-judgment interest;

23 F. For an order awarding attorneys' fees and costs of suit, including experts' witness  
24 fees as permitted by law; and

25       ///

26       ///

1 G. Such other and further relief as this Court deems just and proper.  
2

3 Dated: January 11, 2011

Respectfully submitted,

4 FINKELSTEIN & KRINSK LLP

5 By

6 William R. Restis

7

8 Jeffrey R. Krinsk  
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9  
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12 Counsel for Plaintiff  
13 Conrad Braun  
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## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Conrad Braun

(b) County of Residence of First Listed Plaintiff San Diego  
(EXCEPT IN U.S. PLAINTIFF CASES)

FILED	
JAN 11 2012	
CLERK, U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA BY [Signature]	

12 CV 0085 JLS MDD

(c) Attorney's (Firm Name, Address, and Telephone Number)

William R. Restis, Finkelstein &amp; Krinsky, LLP

501 West Broadway, Ste. 1250, San Diego, CA 92101 619-238-1333

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff  3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant  4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State <input checked="" type="checkbox"/> PTF <input type="checkbox"/> DEF	Incorporated or Principal Place of Business In This State <input type="checkbox"/> PTF <input checked="" type="checkbox"/> DEF
Citizen of Another State <input type="checkbox"/> 2 <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 3 <input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation <input type="checkbox"/> 6 <input type="checkbox"/> 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</b>	<b>LABOR</b>	<b>SOCIAL SECURITY</b>
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/ Disabilities - Employment <input type="checkbox"/> 446 Amer. w/ Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			<b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS---Third Party 26 USC 7609
				<input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

## V. ORIGIN

(Place an "X" in One Box Only)

1 Original Proceeding  2 Removed from State Court  3 Remanded from Appellate Court  4 Reinstated or Reopened  5 Transferred from another district (specify)  6 Multidistrict Litigation  7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 47 USC 800.227 28.1331 D.

## VI. CAUSE OF ACTION

Brief description of cause: Negligent and willful violations of the telephone consumer protection act

## VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION  
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

## VIII. RELATED CASE(S)

IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

01/11/2012

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # 34310

AMOUNT

\$350 -

APPLYING IFF

JUDGE

MAG. JUDGE

drTB 01/11/12

Court Name: USDC California Southern  
Division: 3  
Receipt Number: CAS034310  
Cashier ID: mbain  
Transaction Date: 01/11/2012  
Payer Name: FINKELSTEIN KRINSK

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CIVIL FILING FEE  
For: BRAUN V SAVEOLOGY.COM  
Case/Party: D-CAS-3-12-CV-000085-001  
Amount: \$350.00

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CHECK  
Check/Money Order Num: 1088  
Amt Tendered: \$350.00

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Total Due: \$350.00  
Total Tendered: \$350.00  
Change Amt: \$0.00

There will be a fee of \$53.00  
charged for any returned check.